

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
FRANGIE ESPINAL,

Plaintiff,

-v-

MAGMA PRODUCTS, LLC,

Defendant.
-----X

24-CV-4755 (JAV)

ORDER SCHEDULING
DEFAULT JUDGMENT
BRIEFING

JEANNETTE A. VARGAS, United States District Judge:

Defendant in this action appears to be in default. The docket reflects that Defendant was served with the Complaint on September 20, 2024. Plaintiff has requested a one-month adjournment of the initial pretrial conference scheduled in this case for March 6, 2025, because Defendant has not yet retained counsel. ECF No. 15. This is the third adjournment of the initial pretrial conference in this matter since Defendant was served with the Complaint.

Plaintiff shall file a motion for default judgment, in accordance with the Court's Individual Rules and Practices for Civil Cases, **by April 16, 2025**, if Defendant has not filed a response to the Complaint by that time. Plaintiff should familiarize himself with Local Civil Rules 55.1 and 55.2, which, along with Rule 55 of the Federal Rules of Civil Procedure and Appendix A of the Court's Individual Rules and Practices for Civil Cases, govern default judgment motion practice before this Court. Per Local Civil Rule 55.2, a party seeking default judgment must append to the motion a Clerk's Certificate of Default, which may be obtained by following the procedure described in Local Civil Rule 55.1. To be clear: Plaintiff must file his **motion** for default judgment, *not* merely his request for a Clerk's Certificate of Default, by the above deadline.

If Plaintiff's counsel submits calculations in support of any motion for default judgment, Plaintiff's counsel shall also email native versions of the files with the calculations (i.e., versions of the files in their original format, such as in ".xlsx") to Chambers at VargasNYSDChambers@nysd.uscourts.gov. If or when a motion for default judgment is filed, the Court will enter a further Order setting a deadline for any opposition and reply and scheduling a show cause hearing. If no motion for default judgment is filed by the deadline set forth above, the case may be dismissed for failure to prosecute without further notice to the parties.

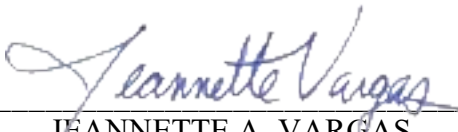
Plaintiff shall serve a copy of this Order electronically and/or by first-class mail on Defendant **within two business days from the date of this Order** and shall file proof of such service **within three business days of the date of this Order**.

Defendant is on notice that, if the Court enters a default judgment, Defendant could be found liable because they have not responded to this lawsuit by answering it or moving to dismiss. If Defendant does not participate in the lawsuit now, it would likely waive its right to raise factual or legal defenses that it may have to Plaintiff's claims.

Plaintiff's request for an adjournment of the pretrial conference is GRANTED. The Clerk of Court is directed to terminate ECF No. 15.

SO ORDERED.

Dated: February 26, 2025
New York, New York



JEANNETTE A. VARGAS
United States District Judge